

Introduced by Senator Ducheny

February 17, 2005

An act to amend and repeal Section 60640 of the Education Code, relating to pupil assessment.

LEGISLATIVE COUNSEL'S DIGEST

SB 385, as amended, Ducheny. Pupil assessment.

(1) The existing Standardized Testing and Reporting (STAR) Program, until July 1, 2007, requires each school district, charter school, and county office of education to administer a designated achievement test to each of its pupils in grades 3 and 7 and a standards-based achievement test to each of its pupils in grades 2 to 11, inclusive.

Existing law, commencing July 1, 2007, excludes pupils in grade 2 from the standards-based achievement test requirement.

This bill would make those provisions inoperative on July 1, 2011, and repeal them on January 1, 2012.

~~(2) Existing law, until July 1, 2007, requires the State Department of Education to develop and adopt primary language assessments that are aligned to the state academic content standards to supplant the primary language test, as specified.~~

~~This bill would extend the operation of those provisions until July 1, 2011.~~

~~(3) Existing law requires a pupil of limited English proficiency, as specified, to take a test in his or her primary language if a test is available, and if fewer than 12 months have elapsed after his or her initial enrollment in a school in the state.~~

This bill, instead, until July 1, 2011, would require a pupil of limited English proficiency, as specified, to take a test in his or her primary

language if a test is available and he or she either receives instruction in his or her primary language or has been enrolled in a school in the United States for less ~~then~~ *than* 12 months.

~~(4) Existing law requires a school district, charter school, and county office of education to administer to each pupil, as specified, who is an individual with exceptional needs, a standards-based achievement test and an achievement test, with appropriate accommodations, and an alternate assessment to individuals with exceptional needs that are unable to participate.~~

~~This bill, until July 1, 2011, would require the Superintendent of Public Instruction to apportion funds to school districts to meet those requirements.~~

~~(5) Existing law, commencing July 1, 2007, authorizes and encourages the superintendent and the State Board of Education to assist postsecondary educational institutions to use the California Standards Tests for academic credit, placement, and admissions processes.~~

~~This bill would make that authorization and encouragement operative commencing January 1, 2006, and until July 1, 2011.~~

~~(4) Existing law requires the Superintendent of Public Instruction to apportion funds to school districts to enable districts to meet these testing requirements.~~

~~This bill would delete these provisions.~~

Vote: majority. Appropriation: no. Fiscal committee: yes.
State-mandated local program: no.

The people of the State of California do enact as follows:

1 SECTION 1. Section 60640 of the Education Code, as
2 amended by Section 15 of Chapter 233 of the Statutes of 2004, is
3 amended to read:
4 60640. (a) There is hereby established the Standardized
5 Testing and Reporting Program, to be known as the STAR
6 Program.
7 (b) Commencing in the 2004–05 fiscal year and each fiscal
8 year thereafter, and from the funds available for that purpose,
9 each school district, charter school, and county office of
10 education shall administer to each of its pupils in grades 3 and 7
11 the achievement test designated by the State Board of Education
12 pursuant to Section 60642 and shall administer to each of its

pupils in grades 2 to 11, inclusive, the standards-based achievement test provided for in Section 60642.5. The state board shall establish a testing period to provide that all schools administer these tests to pupils at approximately the same time during the instructional year, except as necessary to ensure test security and to meet the final filing date.

(c) The publisher and the school district shall provide two makeup days for the testing of previously absent pupils within the testing period established by the state board in subdivision (b).

(d) The governing board of the school district may administer achievement tests in grades other than those required by subdivision (b) as it deems appropriate.

(e) Pursuant to paragraph (17) of subsection (a) of Section 1412 of Title 20 of the United States Code, individuals with exceptional needs, as defined in Section 56026, shall be included in the testing requirement of subdivision (b) with appropriate accommodations in administration, where necessary, and those individuals with exceptional needs who are unable to participate in the testing, even with accommodations, shall be given an alternate assessment.

(f) (1) At the option of the school district, a pupil ~~with limited English proficiency~~ *identified as limited-English-proficient pursuant to the administration of a test made available pursuant to Section 60810* who is enrolled in any of grades 2 to 11, inclusive, may take a second achievement test in his or her primary language. Primary language tests administered pursuant to this subdivision and subdivision (g) shall be subject to the requirements of subdivision (a) of Section 60641. These primary language tests shall produce individual pupil scores that are valid and reliable, *and that may be disaggregated by time, program, and English language development proficiency level.*

(2) Notwithstanding any other provision of law, the state board shall designate for use, as part of this program, a single primary language test in each language for which a test is available for grades 2 to 11, inclusive, pursuant to the process used for designation of the assessment chosen in the 1997–98 fiscal year, as specified in Sections 60642 and 60643, ~~and as specified in Section 60642.5,~~ as applicable.

(3) (A) The department shall use funds made available pursuant to Title VI of the federal No Child Left Behind Act of 2001 and appropriated by the annual Budget Act for the purpose of developing or adopting primary language assessments that are aligned to the state academic content standards. Subject to the availability of funds, primary language assessments shall be developed or adopted for reading/language arts and mathematics in the dominant primary language of limited-English-proficient pupils. The dominant primary language shall be determined by the count in the annual language census of the primary language of each limited-English-proficient pupil enrolled in the California public schools.

(B) Once a dominant primary language assessment is available for use for a specific grade level, it shall be administered in place of the assessment designated pursuant to paragraph (1) for that grade level.

(C) In choosing a contractor to develop a primary language assessment, the state board shall consider the criteria for choosing a contractor or test publisher as specified by Sections 60642 and 60643, and as specified by Section 60642.5, as applicable.

(D) Subject to the availability of funds, the assessments shall be developed in grade order starting with the lowest grade subject to the STAR Program.

(E) If the state board contracts for the development of primary language assessments or test items to augment an existing assessment, the state shall retain ownership rights to the assessment and the test items. With the approval of the state board, the department may license the test for use in other states subject to a compensation agreement approved by the Department of Finance.

(F) On or before January 1, 2006, the department shall submit to the Legislature a report on the development and implementation of the initial primary language assessments and recommendations on the development and implementation of future assessments and funding requirements.

(g) A pupil identified as limited English proficient pursuant to the administration of a test made available pursuant to Section 60810 who is enrolled in any of grades 2 to 11, inclusive, and who either receives instruction in his or her primary language or

has been enrolled in a school in the United States for less than 12 months shall be required to take a test in his or her primary language if a test is available.

(h) (1) The Superintendent shall apportion funds to school districts to enable school districts to meet the requirements of subdivisions (b), (f), and (g), ~~and the alternate assessment required pursuant to subdivision (e).~~

(2) The state board shall annually establish the amount of funding to be apportioned to school districts for each test administered and shall annually establish the amount that each publisher shall be paid for each test administered under the agreements required pursuant to Section 60643. The amounts to be paid to the publishers shall be determined by considering the cost estimates submitted by each publisher each September and the amount included in the annual Budget Act, and by making allowance for the estimated costs to school districts for compliance with the requirements of subdivisions (b), (f), and (g), and the alternate assessment required pursuant to subdivision (e).

(3) An adjustment to the amount of funding to be apportioned per test may not be valid without the approval of the Director of Finance. A request for approval of an adjustment to the amount of funding to be apportioned per test shall be submitted in writing to the Director of Finance and the chairpersons of the fiscal committees of both houses of the Legislature with accompanying material justifying the proposed adjustment. The Director of Finance is authorized to approve only those adjustments related to activities required by statute. The Director of Finance shall approve or disapprove the amount within 30 days of receipt of the request and shall notify the chairpersons of the fiscal committees of both houses of the Legislature of the decision.

(i) For the purposes of making the computations required by Section 8 of Article XVI of the California Constitution, the appropriation for the apportionments made pursuant to paragraph (1) of subdivision (h), and the payments made to the publishers under the contracts required pursuant to Section 60643 or subparagraph (C) of paragraph (1) of subdivision (a) of Section 60605 between the department and the contractor, are "General Fund revenues appropriated for school districts," as defined in subdivision (c) of Section 41202, for the applicable fiscal year,

1 and included within the “total allocations to school districts and
2 community college districts from General Fund proceeds of taxes
3 appropriated pursuant to Article XIII B,” as defined in
4 subdivision (e) of Section 41202, for that fiscal year.

5 (j) As a condition to receiving an apportionment pursuant to
6 subdivision (h), a school district shall report to the superintendent
7 all of the following:

8 (1) The number of pupils enrolled in the school district in
9 grades 2 to 11, inclusive.

10 (2) The number of pupils to whom an achievement test was
11 administered in grades 2 to 11, inclusive, in the school district.

12 (3) The number of pupils in paragraph (1) who were exempted
13 from the test at the request of their parents or guardians.

14 ~~(k) The superintendent and the state board are authorized and~~
15 ~~encouraged to assist postsecondary educational institutions to use~~
16 ~~the assessment results of California Standards Tests, including~~
17 ~~the augmented California Standards Tests, for academic credit, or~~
18 ~~placement, and admissions processes, or both purposes.~~

19 ~~(l) The superintendent shall, with the approval of the state~~
20 ~~board, annually release to the public at least 25 percent of test~~
21 ~~items from the standards-based achievement test provided for in~~
22 ~~Section 60642.5 from the test administered in the previous year.~~

23 ~~(m) This section shall become inoperative on July 1, 2007, and~~
24 ~~as of January 1, 2008, is repealed, unless a later enacted statute,~~
25 ~~that is enacted before January 1, 2008, deletes or extends the~~
26 ~~dates on which it becomes inoperative and is repealed.~~

27 SEC. 2. Section 60640 of the Education Code, as added by
28 Section 16 of Chapter 233 of the Statutes of 2004, is amended to
29 read:

30 60640. (a) There is hereby established the Standardized
31 Testing and Reporting Program, to be known as the STAR
32 Program.

33 (b) Commencing in the 2007–08 fiscal year and each fiscal
34 year thereafter, and from the funds available for that purpose,
35 each school district, charter school, and county office of
36 education shall administer to each of its pupils in grades 3 and 7
37 the achievement test designated by the State Board of Education
38 pursuant to Section 60642 and shall administer to each of its
39 pupils in grades 3 to 11, inclusive, the standards-based
40 achievement test provided for in Section 60642.5. The state

board shall establish a testing period to provide that all schools administer these tests to pupils at approximately the same time during the instructional year, except as necessary to ensure test security and to meet the final filing date.

(c) The publisher and the school district shall provide two makeup days for the testing of previously absent pupils within the testing period established by the state board in subdivision (b).

(d) The governing board of the school district may administer achievement tests in grades other than those required by subdivision (b) as it deems appropriate.

(e) Pursuant to paragraph (17) of subsection (a) of Section 1412 of Title 20 of the United States Code, individuals with exceptional needs, as defined in Section 56026, shall be included in the testing requirement of subdivision (b) with appropriate accommodations in administration, where necessary, and those individuals with exceptional needs who are unable to participate in the testing, even with accommodations, shall be given an alternate assessment.

(f) ~~(1)~~ At the option of the school district, a pupil ~~with limited English proficiency identified as limited-English-proficient pursuant to the administration of a test made available pursuant to Section 60810~~ who is enrolled in any of grades 3 to 11, inclusive, may take a second achievement test in his or her primary language. Primary language tests administered pursuant to this subdivision and subdivision (g) shall be subject to the requirements of subdivision (a) of Section 60641. These primary language tests shall produce individual pupil scores that are valid and reliable, *and that may be disaggregated by time, program, and English language development proficiency level.*

~~(2) Notwithstanding any other provision of law, the state board shall designate for use, as part of this program, a single primary language test in each language for which a test is available for grades 3 to 11, inclusive, pursuant to the process used for designation of the assessment chosen in the 1997-98 fiscal year, as specified by Sections 60642 and 60643, and as specified by Section 60642.5, as applicable.~~

~~(3) (A) The department shall use funds made available pursuant to Title VI of the federal No Child Left Behind Act of 2001 and appropriated by the annual Budget Act for the purpose~~

1 of developing and adopting primary language assessments that
2 are aligned to the state academic content standards. Subject to the
3 availability of funds, primary language assessments shall be
4 developed and adopted for reading/language arts and
5 mathematics in the dominant primary language of
6 limited-English-proficient pupils. The dominant primary
7 language shall be determined by the county in the annual
8 language census of the primary language of each
9 limited-English-proficient pupil enrolled in the California public
10 schools.

11 (B) Once a dominant primary language assessment is available
12 for use for a specific grade level, it shall be administered in place
13 of the assessment designated pursuant to paragraph (1) for that
14 grade level.

15 (C) In choosing a contractor to develop a primary language
16 assessment, the state board shall consider the criteria for
17 choosing a contractor or test publisher as specified by Sections
18 60642 and 60643, and as specified by Section 60642.5, as
19 applicable.

20 (D) Subject to the availability of funds, the assessments shall
21 be developed in grade order starting with the lowest grade
22 subject to the STAR Program.

23 (E) If the state board contracts for the development of primary
24 language assessments or test items to augment an existing
25 assessment, the state shall retain ownership rights to the
26 assessment and the test items. With the approval of the state
27 board, the department may license the test for use in other states
28 subject to a compensation agreement approved by the
29 Department of Finance.

30 (g) A pupil identified as limited English proficient pursuant to
31 the administration of a test provided by Section 60810, who is
32 enrolled in any of grades 3 to 11, inclusive, who either receives
33 instruction in his or her primary language or has been enrolled in
34 a school in the United States for less than 12 months, shall be
35 required to take a test in his or her primary language if a test is
36 available.

37 (h) (1) The superintendent shall apportion funds to school
38 districts to enable school districts to meet the requirements of
39 subdivisions (b), (f), and (g) and the alternative assessment
40 required by subdivision (c).

1 ~~(2) The state board shall annually establish the amount of~~
2 ~~funding to be apportioned to school districts for each test~~
3 ~~administered and shall annually establish the amount that each~~
4 ~~publisher shall be paid for each test administered under the~~
5 ~~agreements required pursuant to Section 60643. The amounts to~~
6 ~~be paid to the publishers shall be determined by considering the~~
7 ~~cost estimates submitted by each publisher each September and~~
8 ~~the amount included in the annual Budget Act, and by making~~
9 ~~allowance for the estimated costs to school districts for~~
10 ~~compliance with the requirements of subdivisions (b), (f), and (g)~~
11 ~~and the alternative assessment required by subdivision (e).~~

12 ~~(3) An adjustment to the amount of funding to be apportioned~~
13 ~~per test may not be valid without the approval of the Director of~~
14 ~~Finance. A request for approval of an adjustment to the amount~~
15 ~~of funding to be apportioned per test shall be submitted in writing~~
16 ~~to the Director of Finance and the chairpersons of the fiscal~~
17 ~~committees of both houses of the Legislature with accompanying~~
18 ~~material justifying the proposed adjustment. The Director of~~
19 ~~Finance is authorized to approve only those adjustments related~~
20 ~~to activities required by statute. The Director of Finance shall~~
21 ~~approve or disapprove the amount within 30 days of receipt of~~
22 ~~the request and shall notify the chairpersons of the fiscal~~
23 ~~committees of both houses of the Legislature of the decision.~~

24 ~~(i) For the purposes of making the computations required by~~
25 ~~Section 8 of Article XVI of the California Constitution, the~~
26 ~~appropriation for the apportionments made pursuant to paragraph~~
27 ~~(1) of subdivision (h), and the payments made to the publishers~~
28 ~~under the contracts required pursuant to Section 60643 or~~
29 ~~subparagraph (C) of paragraph (1) of subdivision (a) of Section~~
30 ~~60605 between the department and the contractor, are "General~~
31 ~~Fund revenues appropriated for school districts," as defined in~~
32 ~~subdivision (c) of Section 41202, for the applicable fiscal year,~~
33 ~~and included within the "total allocations to school districts and~~
34 ~~community college districts from General Fund proceeds of taxes~~
35 ~~appropriated pursuant to Article XIII B," as defined in~~
36 ~~subdivision (c) of Section 41202, for that fiscal year.~~

37 ~~(j) As a condition to receiving an apportionment pursuant to~~
38 ~~subdivision (h), a school district shall report to the~~
39 ~~Superintendent all of the following:~~

1 ~~(1) The number of pupils enrolled in the school district in~~
2 ~~grades 3 to 11, inclusive.~~

3 ~~(2) The number of pupils to whom an achievement test was~~
4 ~~administered in grades 3 to 11, inclusive, in the school district.~~

5 ~~(3) The number of pupils in paragraph (1) who were exempted~~
6 ~~from the test at the request of their parents or guardians.~~

7 ~~(k) The superintendent and the state board are authorized and~~
8 ~~encouraged to assist postsecondary educational institutions to use~~
9 ~~the assessment results of California Standards Tests, including~~
10 ~~the augmented California Standards Tests, for academic credit, or~~
11 ~~placement, and admissions processes, or both purposes.~~

12 ~~(l) The superintendent shall, with the approval of the state~~
13 ~~board, annually release to the public at least 25 percent of test~~
14 ~~items from the standards-based achievement test provided for in~~
15 ~~Section 60642.5 from the test administered in the previous year.~~

16 ~~(m)–~~

17 ~~(h) This section shall become operative July 1, 2007.~~

18 ~~(n)–~~

19 ~~(i) This section shall become inoperative on July 1, 2011, and,~~
20 ~~as of January 1, 2012, is repealed, unless a later enacted statute,~~
21 ~~that becomes operative on or before January 1, 2012, deletes or~~
22 ~~extends the dates on which it becomes inoperative and is~~
23 ~~repealed.~~

24
25
26 **CORRECTIONS:**

27 **Digest – Pages 1 and 2.**

28 **Text – Page 8.**
29